

The Honorable Benjamin H. Settle

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

JOHN DOE #1, an individual, JOHN
DOE #2, an individual, and PROTECT
MARRIAGE WASHINGTON,

Plaintiffs,

v.

SAM REED, in his official capacity as
Secretary of State of State of Washington,
BRENDA GALARZA, in her official
capacity as Public Records Officer for the
Secretary of State of Washington,

Defendants.

NO. 09-cv-05465-BHS

DESIGNATED DEPOSITION
TESTIMONY OF [Redacted]
[Redacted]

Pursuant to Local Rule 32(e), Defendants Sam Reed and Brenda Galarza, Intervenors Washington Families Standing Together and the Washington Coalition for Open Government and Plaintiffs John Doe #1, John Doe #2, and Protect Marriage Washington (collectively, the “Parties”) hereby submit combined designated deposition testimony for [Redacted]

[Redacted]

Defendants and Intervenors object to the admission of any deposition testimony taken of any witnesses who could be called to testify at trial. Therefore, the designations of

1 Defendants and Intervenorors are being submitted in the event that the Court decides to admit
2 deposition testimony.

3 For the Court's convenience Defendants' designations have been highlighted in blue,
4 Intervenorors' designations have been highlighted in pink, and Plaintiffs' designations have
5 been highlighted in yellow. Objections have been noted in the margins. Plaintiffs will be
6 filing the redacted versions of these documents.

7 DATED this 6th day of September, 2011.

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9 Attorney General

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Redacted

October 15, 2010

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IN THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN DOE #1, et al.,)

)

Plaintiffs,)

)

)

)

VS.)

3:09-CV-5456-BHS

)

SAM REED, et al.,)

)

Defendants.)

)

)

DEPOSITION OF

Redacted

Taken on behalf of the Defendants

October 15, 2010

Redacted

October 15, 2010

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A P P E A R A N C E S

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E X A M I N A T I O N

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The deposition of [Redacted]
[Redacted] taken on behalf of the
Defendants, on October 15, 2010, at the
offices of Alpha Court Reporting, 3200 West
End Avenue, Suite 500, Nashville, Tennessee,
for all purposes under the Federal Rules of
Civil Procedure.

The formalities as to caption, certificate, et cetera, are waived. All objections, except as to the form of the questions, are reserved to the hearing.

It is agreed that Lise S. Matthews, being a Notary Public and Certified Court Reporter for the State of Tennessee, may swear the witness, and that the reading and signing of the completed deposition by the witness is not waived.

* * *

Redacted

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1 Redacted

2 was called as a witness, and after having

3 been first duly sworn, testified as follows:

4

5 EXAMINATION BY MS. BARNES:

6 Q. Good morning. Can you please

7 state your name for the record?

8 A. My name is Redacted

9 Q. And Redacted is spelled how?

10 A. Redacted

11 Q. And can you tell us your home

12 address?

13 A. Redacted

14 Redacted

15 Q. And Redacted is Redacted

16 A. Redacted

17 Q. And I'm not from Redacted So

18 I'm not sure how it was spelled and where

19 it's from.

20 How long have you been in

21 Redacted

22 A. We moved here in June of 2010.

23 Q. Okay. And prior to that you lived

24 in Redacted

25 A. Redacted, for the two

Redacted

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5

1 years previous to that.

2 Q. So two years previous to that
3 would be June of '08?

4 A. That's correct.

5 Q. To June of 2010?

6 A. That's right.

7 Q. Had you been in Redacted prior
8 to being in Redacted

9 A. No.

10 Q. Where were you before then?

11 A. We resided in Redacted ,
12 Redacted .

13 Q. Oh, you go back and forth from
14 coast to coast.

15 And where are you currently
16 employed?

17 A. Redacted in
18 Redacted .

19 Q. And what is that?

20 A. That's the Christian and classical
21 school.

22 Q. And what do you do there?

23 A. I teach upper school logic,
24 rhetoric, and humanities.

25 Q. And have you been doing that since

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6

1 June of 2010?

2 A. Yes, ma'am.

3 Q. And what were you employed as --
4 or where were you employed while you were in
5 Redacted

6 A. I was employed at Redacted
7 where I was both the secondary humanities
8 instructor and associate head master.

9 Q. And were you at Redacted
10 the whole two years you were in Redacted

11 A. Yes, ma'am.

12 Q. And have you ever been deposed
13 before?

14 A. No, ma'am.

15 Q. All right. I should probably
16 start with a couple ground rules now that we
17 have gotten to know each other a little bit.

18 As you can tell, everything we're
19 saying is being taken down by the court
20 reporter. So as much as you can, and I will
21 try to do the same, not talk over each other.
22 It will make her pull her hair out, and we
23 don't need her to do that.

24 And likewise, when I'm asking a
25 question, if you could give a verbal

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1 response, a yes or a no, so she can take it
2 down, that would be appreciated.

3 A. Yes, ma'am.

4 Q. And finally, if you need to take a
5 break or if you have any questions, please
6 let me know. We're more than happy to
7 rephrase something or address any questions
8 you have. My only request is if you want to
9 take a break, please don't do it while a
10 question is pending and do it before or after
11 you answer.

12 A. Yes, ma'am.

13 Q. Okay. Great. Let's talk a little
14 bit about Referendum 71. You're familiar
15 with that?

16 A. Yes, ma'am.

17 Q. And if I call it Referendum 71,
18 what does that mean to you?

19 A. That was the petition drive that
20 we engaged in in an effort to forestall a law
21 that the Washington State legislature was
22 attempting to enact which would have had
23 ramifications in favor of the advancement of
24 homosexual marriage in Washington over the
25 long-term.

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1 Q. And how did you become familiar
2 with Referendum 71?

3 A. Hmm. Probably most directly
4 through my social network, which involved
5 individuals who were intimately involved in
6 the petition drive and the formulation of
7 that petition drive.

8 Q. So were you part of the
9 organization that -- that initiated the
10 petition drive?

11 A. I was not.

12 Q. You came in afterwards?

13 A. Yes, ma'am.

14 Q. Now let's talk about the petitions
15 themselves, then. Did you sign the
16 Referendum 71 petition?

17 A. I did.

18 Q. Do you remember where or when that
19 was, approximately?

20 A. Where I physically signed the
21 petition?

22 Q. Uh-huh.

23 A. I'm pretty sure that I signed it
24 after a church service sometime during April
25 or May. I don't know specifically when, but

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1 it was somewhere in the middle of the drive.
2 We had brought petitions in to church. After
3 the service, we had them in the foyer area in
4 the back. I signed it on one of those
5 occasions.

6 Q. And you said "we" had brought the
7 petitions in to church. Is that what you
8 said?

9 A. Well, "we" in the sense that one
10 of the other people who was affiliated with
11 the petition drive also attended our church.
12 She brought them and I signed them.

13 Q. Okay. I see. So when you were
14 saying "we," it wasn't you included in that?

15 A. Correct.

16 Q. Okay. I just wanted to be clear.

17 And so was there -- the woman who
18 brought them who was involved, was she there
19 with a clipboard? Is that how you were
20 handed the petition? Do you remember?

21 A. As I recall, it was simply set on
22 the table in the back of the room. A brief
23 announcement was made that anyone who was
24 interested in signing the petition, that one
25 would be available in the back of the room.

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1 And I don't recall it being circulated. Just
2 sitting there and after the service, if you
3 wanted to, you could sign on your way out.

4 Q. So there was a table in the back
5 with sort of stacks of petitions, blank
6 petitions?

7 A. I don't even recall there were
8 stacks. There may have been one or two.

9 Q. Okay. So just a couple?

10 A. (Witness moves head up and down.)
11 Sorry. Yes, ma'am.

12 Q. Thank you.

13 And were other individuals
14 standing around at that table when you were
15 signing? Do you remember?

16 A. That table -- that table's like a
17 multipurpose table. I mean, that's also
18 where the usher sets the bulletins and things
19 like that. So I don't know that anyone was
20 sitting at the table. It's more like an
21 informational kind of a display table for
22 literature and such going in to the church.

23 Q. So there were other brochures and
24 sort of papers on the table in addition to
25 the petitions?

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1 A. That's my recollection, yes.

2 Q. And when you signed the petition,
3 were there other folks there either before
4 you signing it or behind you waiting to sign?

5 A. I don't remember a line. I
6 remember talking about the petition with a
7 couple of other individuals.

8 Q. And you were -- let me just
9 clarify. You were talking with individuals
10 sort of at that table or --

11 A. No. No. I'll paint a better
12 picture. After the service, during the
13 typical mull around and talk with people
14 time --

15 Q. Uh-huh.

16 A. -- since the petition had been
17 mentioned, we knew it was there. A few of us
18 were speaking about it. At that point, I
19 think I noticed that no one else was back
20 there, so I took that opportunity to sign the
21 petition.

22 Q. And you said you took that
23 opportunity to sign because then you weren't
24 going to have to wait in line?

25 A. Correct.

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1 Q. And so that was easier for you,
2 just to go straight up there and sign?

3 A. Yes, ma'am.

4 Q. And other -- you could see other
5 signatures on the form; is that correct?

6 A. There were a couple.

7 Q. And anybody who signed after you
8 could have seen your signature; correct?

9 A. Yes, ma'am.

10 Q. And you said you were talking to
11 other folks at that mulling around time?

12 A. Uh-huh.

13 Q. About the referendum?

14 A. Yes, ma'am.

15 Q. And did you tell them that you had
16 signed?

17 A. You know, I don't really remember
18 specifically saying I did sign or I didn't.
19 I think it was within -- within my immediate
20 circle of -- of acquaintances, I think it was
21 general knowledge that all of us intended to
22 sign.

23 Q. And do you know why that was
24 general knowledge? Was it just something
25 that had came up in conversation?

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1 A. Well, I think that our general
2 world views were shared and there -- we had
3 enough dinnertime conversations at one
4 another's homes to know that we were all
5 in -- in -- we were like-minded about that
6 particular political issue and we had all
7 spoken about the need to sign it. Therefore,
8 I think it was presumed that each person in
9 that group would have signed it.

10 Q. Okay.

11 A. So just need to clarify, I don't
12 think anyone ever said, I have now signed it.

13 Q. There was no declaratory statement
14 like that?

15 A. Correct.

16 Q. Okay. Were you aware when you
17 signed the petition that it could be made
18 publicly available?

19 A. To be honest with you, I didn't
20 really have -- I didn't really think about it
21 one way or the other. I'd never given much
22 thought to whether petitions were public or
23 not public in any respect probably until
24 after the petition drive was either nearly
25 concluded or shortly after.

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1 Q. And if you had been aware at the
2 time you signed that it could be publicly
3 available, would that have changed your
4 decision on whether to sign?

5 A. Probably not.

6 Q. And why is that?

7 A. Well, I felt very strongly about
8 the issue at the time. I don't think that it
9 would -- I don't think that would have
10 changed my actions on that occasion given
11 what I knew at the time.

12 Q. And it sounds like you signed the
13 petition early enough in the process that
14 there probably wasn't discussions of
15 litigation surrounding the petitions; is that
16 right?

17 A. No. That -- those -- even the
18 mere mention of litigation didn't come until
19 a number of months beyond that.

20 Q. Okay. And did you circulate
21 petitions yourself?

22 A. I did not.

23 Q. Were you otherwise involved in the
24 Referendum 71 campaign?

25 A. Only on one occasion. In

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1 Redacted the organizers of the petition
2 drive locally had put together a little rally
3 in the park. I did attend that rally for a
4 couple of hours as a way of showing, you
5 know, my support. And because the organizers
6 were ladies, I was there to kind of help move
7 tables and things of that nature.

8 Q. You were there to be the force?

9 A. Yes, ma'am. On that particular
10 occasion, a reporter -- and I don't really
11 remember where she was from -- she was doing
12 some kind of -- I think she was an on-line
13 freelance journalist of some kind, did stop
14 by. They did a short little, hey, there's a
15 rally going on. It's Redacted Not a whole
16 lot happens, so any group of people in
17 Redacted gets an article, I think. And I was
18 briefly interviewed just for, hey, what's
19 the -- what is this all -- what's happening
20 here today kind of thing. And so if you want
21 to call that involved, that's -- that would
22 be the extent of it.

23 Q. And at that rally in the park in

24 Redacted

25 A. I'm sorry to interrupt.

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1 Q. That's all right.

2 A. I'd like to back up.

3 Q. Sure.

4 A. There is one other way in which I
5 was involved with the campaign. And that is
6 that by way of donation, I did donate a small
7 sum of money, \$25 or somewhere abouts to the
8 campaign.

9 Q. All right. And we'll come back to
10 that. But let's chat a little bit more about
11 that rally in the park.

12 Do you know approximately how many
13 people attended?

14 A. It was not a large rally. People
15 trickled in and out. I would say maybe 60 to
16 70 people over the course of three to four
17 hours.

18 Q. And were they circulating
19 petitions at that event?

20 A. They were.

21 Q. And I think I found that video of
22 you being interviewed. It was on a Reda
23 website.

24 A. Okay.

25 Q. But it was I think -- I can't

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1 remember because, like I say, I'm not that
2 sophisticated, but I think it was sort of a
3 citizen journalism piece?

4 A. Yeah. It wasn't -- it didn't --
5 it wasn't like a professional newscaster
6 coming in. The -- I think the lady who did
7 it actually lived just up the street and saw
8 something going on and came down and had --
9 well, looked like a -- one of those Wal-Mart
10 little, you know, phone cams. I mean, so the
11 tech level there was pretty -- pretty low.

12 Q. So it was a small portable camera?

13 A. Yes, ma'am.

14 Q. And I'm doing a hand gesture which
15 obviously won't come out in the record, but
16 maybe the size of a BlackBerry?

17 A. That would be a fair assessment.

18 Q. Okay. And did she introduce --
19 the reporter, did she introduce herself to
20 you?

21 A. I'm sure she gave her name and
22 that she was doing some kind of -- I do
23 remember specifically it was some kind of
24 on-line journalism. But I have to be frank
25 with you, I was only half paying attention

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1 because she wasn't really speaking to me at
2 the time.

3 Q. Uh-huh.

4 A. So that's the best I can do.

5 Q. But you didn't have any worries
6 about giving an interview with her and being
7 on camera, did you?

8 A. No. I didn't think about it at
9 the time, no.

10 Q. Have you had any other
11 interactions with the members of the media
12 regarding Referendum 71?

13 A. No, ma'am.

14 Q. So let's just talk briefly about
15 your donation. You said you gave maybe \$25?

16 A. Something along those lines.

17 Q. And that was your personal
18 account?

19 A. Yes, ma'am.

20 Q. Did you get a Referendum 71 bumper
21 sticker?

22 A. I don't think I had a bumper
23 sticker. I may have gotten a button.

24 Q. Like a button to wear on your
25 lapel or something?

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1 A. Yes, ma'am.

2 Q. What about a yard sign? Did you
3 have a Referendum 71 yard sign?

4 A. I did not display a yard sign.

5 Q. And I understand that some folks
6 would get Referendum 71 signs or hand-made
7 signs and stand on street corners and sort of
8 rally the cars that were driving by?

9 A. There were people who did that. I
10 was not one of them.

11 Q. You did not.

12 All right. Let me just go through
13 my notes here.

14 Were you involved in -- or had
15 discussions with a campaign manager for
16 Referendum 71?

17 A. Yes, ma'am.

18 Q. Larry Stickney, I think?

19 A. Yes, ma'am.

20 Q. Did I pronounce that correctly?

21 A. I believe so.

22 Q. Okay. Do you generally recall
23 what kinds of conversation you had with
24 Mr. Stickney?

25 A. Yes.

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1 Q. And can you just generally
2 describe what those conversations involved?

3 A. Well, I was acquaintances,
4 friends, with Larry's sister who attended our
5 church, which is the only reason I came to
6 know Larry at all. Most of our conversations
7 were just of a friendly, personal nature
8 around the dinner table. Every six or eight
9 weeks he would come to visit family and we'd
10 see each other, you know. We'd be invited
11 over to the Shinn's home for dinner.

12 Are you asking specifically about
13 conversations related to R-71?

14 Q. Yes. That's correct.

15 A. Okay. We talked about the
16 importance of the changes in the legislation,
17 what the implications of those changes might
18 be, what options the political process
19 afforded us to prevent that legislation from
20 becoming law.

21 In a broader sense, we spoke about
22 our concerns about an activist legislature
23 centered in a geographically isolated area
24 legislating for a much larger area and the
25 comparison that presented to, say, the

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1 founding period of America where the South,
2 very large, but not populated, was competing
3 for representation with the more concentrated
4 but smaller North and that there were
5 similarities in the concerns that we were
6 expressing and these had been seen before in
7 history. So we -- I suppose we spoke about
8 those issues in a somewhat philosophical
9 sense.

10 Q. And it sounds like from what
11 you're describing is that you might have
12 talked to Mr. Stickney prior to the
13 referendum petitions being -- the campaign
14 starting?

15 A. I was acquainted with Larry before
16 the campaign began.

17 Q. So you discussed with him prior to
18 the campaign sort of what the possibilities
19 were for pulling the referendum?

20 A. No. I wouldn't characterize it as
21 that. I'm -- I'm not a -- I'm not a
22 political strategist. That's not my area of
23 expertise. And so I can't say that we ever
24 spoke real specifically about the campaign in
25 any depth until the campaign was already

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1 formulated and he was ready to bounce ideas
2 off people about how to proceed.

3 In those early days leading up to
4 the campaign, we spoke about those issues
5 really more in a conceptual way, what are the
6 implications of this kind of legislation,
7 what's the implication of changing the
8 language of legislation, the historical
9 understandings of gender, for example, and
10 what would that mean for other laws, right,
11 that were on the books; what's the role of
12 the constitution or a state constitution in
13 either advancing or -- advancing the cause of
14 a legislature as opposed to advancing the
15 cause of the general population.

16 I mean, we spoke about those kinds
17 of questions in the sense of political
18 theory, not in the sense of strategy.

19 Q. Okay. And what you were saying
20 made me think of something back to that
21 reporter in the park.

22 A. Yes, ma'am.

23 Q. Did she tell you she was going to
24 post the story on-line?

25 A. I think she indicated that she

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1 would submit it. Sometimes they aired it --
2 sometimes they would edit it down; sometimes
3 they would air it.

4 Q. Okay. And did you ever find it
5 on-line? Did you ever go look for it?

6 A. I think someone sent me a link to
7 it a week or so afterwards. I couldn't even
8 tell you who sent me the link. It was on
9 somebody's blog.

10 Q. Uh-huh.

11 A. I -- I couldn't even tell you
12 whose blog it was. I remember thinking that
13 I wore a good shirt for the interview, had
14 vertical stripes.

15 Q. All right.

16 A. Slimming effect.

17 Q. So you actually watched the video,
18 then?

19 A. I did.

20 Q. Okay. I'll have to remember that,
21 vertical stripes.

22 All right. So let's talk a little
23 bit more about that campaign. You wrote a
24 check. Did you ask anybody else to write a
25 check for the campaign?

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1 A. I did not solicit any money for
2 the campaign.

3 Q. Did you write any letters to the
4 editors?

5 A. I did not.

6 Q. And you only attended the one
7 rally at the park?

8 A. Yes, ma'am.

9 Q. And I can't remember if I asked
10 you this, but when was that, the rally,
11 approximately?

12 A. It was still cold. So it -- to be
13 honest with you, I don't -- I don't remember
14 the specific date. I remember having to wear
15 a coat.

16 Q. Okay. And for those of us who
17 live in Phoenix and don't know when it's cold
18 in Redacted

19 A. It was definitely before say
20 mid-May.

21 Q. Okay. Okay. Were you involved in
22 the signature verification process at the
23 Secretary of State's office?

24 A. No, ma'am.

25 Q. And let's talk a little bit about

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1 your involvement in the lawsuit. And I don't
2 want you to tell me any confidential
3 information between you and your attorney,
4 but generally can you describe how you got
5 involved in this lawsuit?

6 A. Yes, ma'am. Larry Stickney called
7 and indicated that they were moving forward
8 with the lawsuit. I had heard rumblings over
9 the previous couple of days that they might
10 be moving in that direction to forestall
11 publication of personal information from the
12 petitions.

13 Q. And let me just ask. When you
14 said you heard rumblings, where was that or
15 do you remember any conversations?

16 A. I'm sure it was with his sister,
17 Redacted She runs a store in town. I
18 frequented the store. It's a bookstore and
19 coffee shop. I like both. And so I did tend
20 to frequent there. We often chitchatted,
21 small talk. Was often about the progress of
22 the campaign. I'm sure that that's where I
23 heard the rumbling.

24 So I had -- I had some sense that
25 they were going to be moving judicially in

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1 that direction. I didn't really expect to
2 have any part of that, nor did it occur to me
3 that I would be asked to have a part of that.

4 Q. And why is that?

5 A. Well, I mean, I didn't play any
6 key role in the campaign. So there was no
7 reason for me to think that the campaign
8 would have any interest in my being part of
9 such legislation or such --

10 Q. Litigation?

11 A. Litigation. Thank you. So at
12 some point -- I don't remember specifically
13 the date, but we were still in the school
14 year, so it was before June. I don't -- I
15 just don't have -- I am sorry. I don't have
16 a clear recollection of the dates.

17 Q. That's okay.

18 A. It was somewhere in the spring
19 Larry called me and indicated that they were
20 going to move forward with -- and they needed
21 to have a couple of flesh and blood
22 defendants [sic] for the lawsuit, people who
23 had, in fact, signed the petition, and had a
24 legitimate desire not to have their personal
25 information published in a public -- in that

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1 way.

2 I qualified on both of those
3 measures and I indicated to him that if he
4 felt like I was a good fit for what they were
5 trying to do, that I was happy to -- I was
6 happy to serve as a name on the -- on the
7 docket.

8 Q. To be a plaintiff?

9 A. Yes, ma'am.

10 Q. And you indicated that you fit
11 both of the criteria, one of which was that
12 you did not want your information made
13 public; is that correct?

14 A. My personal information, yes.

15 Q. And what do you mean by personal
16 information?

17 A. Specifically name, address, phone
18 number.

19 Q. And --

20 A. Can I back up? Specifically
21 address, phone number. Less -- I was less
22 concerned about the name.

23 Q. So you were more concerned about
24 the contact information?

25 A. Yes, ma'am.

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1 Q. And why were you concerned about
2 the contact information becoming public?

3 A. That -- well, I have a family. I
4 have young children. And my professional
5 career deals with children, which means that
6 the safety of my students is a concern, as is
7 the safety of my family. And while I was
8 happy to speak in a -- in somewhat of a
9 public way, for example, in the news article,
10 I also didn't hand her my -- my -- you know,
11 my private mailing address.

12 Q. And by "her," you mean the
13 reporter?

14 A. The report -- I didn't hand the
15 reporter my personal phone number.

16 So I was -- I was happy to have my
17 name associated with the campaign, but I
18 didn't -- I didn't feel that I wanted my
19 personal address, phone number, e-mail
20 address, that type of thing available to the
21 general public.

22 And I would add that in the real
23 world, I keep my number unlisted out of the
24 phonebook. You know, you can't look up

25 Redacted and find that number in the

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1 book.

2 Q. Your phone number?

3 A. My phone number.

4 Q. Your home phone number.

5 A. And I don't hand out my e-mail
6 address or my mailing address to the general
7 public, either. So given my reluctance to do
8 that in the general world that I run in,
9 which is pretty small, I also didn't want it
10 being available on a much wider audience.

11 Q. Do you know if your contact
12 information, your address or phone number, is
13 made available to the students or parents in
14 the school, Redacted ?

15 A. We did not publish home contact
16 information. Obviously, as an administrator
17 of the school, I had access to parent
18 information. But that was -- that's a
19 different thing. Those addresses and phone
20 numbers were not made public to other
21 families at the school.

22 Q. Okay. And you said you were
23 concerned about your information becoming
24 public in part because you have a family.

25 A. Uh-huh.

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1 Q. Is that correct?

2 A. Yes, ma'am.

3 Q. Were there any other concerns you
4 had?

5 A. No. Those -- frankly, those were
6 my two primary concerns.

7 Q. And had you ever had an instance
8 related to your name being made public or
9 your address being made public where somebody
10 contacted you, harassing or threatening or
11 annoying?

12 A. I did not.

13 Q. And any -- and not just limited to
14 the Referendum 71. I want to make sure I'm
15 clear. That more broadly you haven't had
16 that harassment either?

17 A. I've never had a case of phone
18 harassment, no.

19 Q. What about mail? Have you ever
20 gotten sort of unpleasant letters in the
21 mail?

22 A. Well, I mean, I receive the
23 occasional mailing from the Democratic party,
24 but nothing specific.

25 Q. Nothing directed to you

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1 personally?

2 A. No, ma'am.

3 Q. And in regards to the Referendum
4 71, I know you weren't involved, but the --
5 your limited involvement in that campaign,
6 did anybody ever speak to you about it
7 directly in a sort of harassing or annoying
8 way?

9 A. You mean from -- from the public
10 speaking to me?

11 Q. Correct.

12 A. No, ma'am.

13 Q. No. So the only conversations you
14 had with folks about Referendum 71, if I
15 understand your testimony correctly, were
16 those who were of a similar mind as you?

17 A. Yes, ma'am.

18 Q. Okay. And when you became
19 involved in this lawsuit, were you told that
20 you would have to testify publicly?

21 A. I was advised that it was a
22 possibility.

23 Q. And did that concern you?

24 A. It did not.

25 Q. And why not?

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1 A. Well, because I -- in describing
2 the way that this -- this case would work,
3 that I would be listed as a John Doe and that
4 every reasonable effort to maintain anonymity
5 would be respected. And that it could come
6 to the point where my name would be made
7 public, but that generally speaking, John
8 Does generally remained John Does. And so I
9 thought that that was a reasonable level of
10 risk to accept given the importance that I
11 thought that the matter warranted.

12 Q. Now, if this case were to go to
13 trial -- and I know that's down the road a
14 ways -- would you be hesitant to testify in
15 federal court?

16 A. No, ma'am.

17 Q. And why not?

18 A. If I -- if I had been hesitant to
19 testify, I wouldn't have signed on as a
20 plaintiff.

21 Q. And you're not hesitant to sign on
22 as a plaintiff because you don't worry about
23 people coming and harassing you?

24 A. That concern remains, but the
25 larger issue that others shouldn't have to

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1 worry about it I think outweighs my private
2 concern.

3 Q. And --

4 A. To -- just to clarify. I would
5 like the next Redacted to be able to not have to
6 sweat whether or not his personal information
7 is going to be made public to others, and if
8 I can contribute in this way to preventing
9 that from happening in the future, then I'm
10 willing to undertake that.

11 And after speaking with my wife
12 about it at the time, she was of a similar
13 mind that that was a reasonable level of risk
14 to take on for our family.

15 Q. All right. Let's talk just a
16 little bit about sort of domestic partnership
17 same sex marriage issues sort of generally.

18 A. Yes, ma'am.

19 Q. Have you taken public positions on
20 same sex marriage, for example?

21 A. Can you clarify what you mean by
22 public position?

23 Q. Sure. Speaking in front of a
24 public group, whether it's a church or some
25 other sort of organization or posting

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1 anything on-line, that sort of thing where
2 it's sort of outside your immediate family?

3 A. As a teacher in a Christian
4 school, we sometimes speak about those
5 issues.

6 Q. And "we" includes you?

7 A. We, in the sense of a teacher,
8 students in the classroom. I teach logic
9 classes. Logic classes often deal with
10 debate-like issues. And so we often -- I
11 won't say often, we sometimes encounter those
12 kinds of questions. And so I suppose that I
13 have spoken on those issues in that forum.
14 But I have not -- I have not publicized my
15 positions in the sense of a blog or letters
16 to the editor or speaking at rallies or
17 churches or something like that.

18 Q. So the only instances in which
19 you've spoken about issues of same sex
20 marriage have been in the classroom?

21 A. Yes, ma'am.

22 Q. And I gather, then, that you also
23 have --

24 A. And -- I'm sorry. Can I back up
25 just to clarify your statement?

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1 Q. Of course.

2 A. In the classroom in the context of
3 teaching about debating issues and how to
4 approach those issues and how to use sources
5 and authorities in a Christian school, the
6 Bible would be one of those, but there are
7 others, and how -- and for students how to
8 use those authority sources to construct
9 arguments either for or against those
10 positions.

11 So I just want to clarify that
12 that's in a particular context of teaching
13 and not Redacted pulpit in the class room.

14 Q. Wasn't sort of a non sequitur one
15 day that you were talking about?

16 A. Thank you.

17 Q. I understand.

18 And then have you been involved in
19 political parties?

20 A. Yes.

21 Q. And which parties?

22 A. When I was in college, I
23 participated briefly with the Mountain Party,
24 which was a third party in the state of West
25 Virginia.

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1 Q. Okay.

2 A. Which is largely concerned with
3 environmental issues. Outside of that, I
4 have not had any real activity with political
5 parties.

6 Q. Would you say you're a regular
7 voter?

8 A. I would say I'm a regular voter.

9 Q. So let's talk a little bit about
10 other sort of public debates. Have you been
11 involved in anything not related to same sex
12 marriage and domestic partnerships, involved
13 in a public capacity regarding political
14 issues, any topic? I mean, you mentioned the
15 Mountain Party and the environment. Any
16 others?

17 A. No, ma'am.

18 Q. So you're pretty much church,
19 family, home, straight kind of guy?

20 A. I'm pretty much a home body.

21 Q. Okay. That's fine.

22 When we talked about signing the
23 petition, the Referendum 71 petition, you
24 said at the time you weren't aware of whether
25 or not that would become public. It wasn't

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1 an issue that you had?

2 A. Well, it was a -- it was a --
3 simply the absence of any thought about that
4 question. I hadn't -- I hadn't even thought
5 far enough down the pike to consider whether
6 or not those things were made public. It
7 was -- it just wasn't even on the radar.

8 Q. And do you remember when you
9 became aware that your name could be made
10 public, name and contact information?

11 A. That was probably towards the end
12 of the -- the petition campaign, the petition
13 drive and/or during the time where the
14 signatures were actually being counted and
15 tabulated. I think that that's about the
16 time where that conversation began to
17 surface.

18 Q. And was that the conversation with
19 Mr. Stickney or a different --

20 A. When I say conversation, I mean
21 that in -- in the sense of public
22 conversation. I can't even be honestly
23 certain where I heard that -- where -- even
24 where the idea came from first. I -- I just
25 don't have a -- I don't have a clear recall.

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1 I'm sorry.

2 Q. No. That's okay. We don't want
3 you to guess.

4 A. But -- but it would have been --
5 that would have been the time frame where
6 those -- where those issues started being
7 spoken about. I just can't be certain where
8 and when -- where and with whom those issues
9 began to be spoken with.

10 Q. And when you became aware that
11 your name and contact information could
12 become publicly available, did you take any
13 steps to try to keep it out of the public
14 light aside from the lawsuit?

15 A. Well, I think my reaction at the
16 time was, oh, I hadn't really even thought
17 that those names would be made public. I
18 guess as a voter, you -- you kind of are
19 raised with the idea that the election
20 process, broadly conceived, is generally a
21 confidential process.

22 You know, you go to the ballot box
23 and no one else is looking at your ballot. I
24 suppose I -- I just kind of had been
25 operating in that mindset. When -- when I

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1 first heard that those names -- or that the
2 information -- not so much the names, but
3 particularly the contact information could be
4 made public, I think my reaction was mostly
5 disbelief. I was surprised that that could,
6 in fact, be made public.

7 I don't know that I took any
8 specific steps. Which isn't to say I -- I
9 wasn't really sure what you do about that
10 type of thing. There are lots of things that
11 happen in government that I really don't have
12 any control over. And, you know, I -- I'm
13 not in a -- in a personal way not in a
14 position to facilitate a wholesale change of
15 the government's policy on something.

16 So I guess I kind of just looked
17 at it like, wow, one more thing the
18 government's doing that I'm not happy with.

19 Q. Now, were you aware either when
20 you signed or later that the Secretary of
21 State's office would have to verify your
22 signature?

23 A. Well, I did understand that there
24 was a verification process. And the idea of
25 putting my name and address and phone number

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1 on there as a way to validate that I was a
2 real voter and really resided there and that
3 I was a real signature, I think it was
4 perfectly appropriate. I didn't object to
5 provide -- to furnishing that information so
6 that I could be verified. I just expected
7 that verification process to be handled
8 within the bureaucracy, right, and then put
9 in a white box and stuck on a shelf in the
10 basement somewhere.

11 And, you know, today, in the age
12 of the internet, you know, and where
13 everything -- you can go from being
14 completely private to having your life on a
15 screen in about five seconds, yeah, that --
16 that -- that suddenly my ears pricked up at
17 that and thought, well, that changed my
18 perspective a little bit on that.

19 Q. And were you aware that observers
20 could sort of watch the verification process
21 at the Secretary of State's office?

22 A. I was aware of that. Having --
23 having accountability is always a good thing
24 for everyone. So I didn't object to that.
25 But again, when -- I guess my mindset about

Redacted

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1 that is like observers counting ballots in
2 Florida during the hanging chad debacle,
3 right? You know, you had people watching
4 people counting the votes, but people aren't
5 sitting there reading the ballots for the
6 sake of seeing who voted. They were --
7 they're just seeing who was voted for.

8 Q. Sure. Because the ballots don't
9 have your name on them?

10 A. Correct. I guess similarly I
11 expected that they would be counting
12 signatures for the sake of counting
13 signatures and that, you know, they would
14 stop every tenth signature to verify
15 something to be sure that the batch seemed to
16 be -- that the sample seemed to be valid,
17 that there wasn't anomalies in it, but that
18 once that verification process had ceased,
19 the personal information would just kind of
20 cease to be there, right? It was there to
21 serve a purpose, and once that purpose had
22 been served, it kind of -- it moves off the
23 stage, as it were. And I guess that was the
24 conception that I had of that process.

25 Q. And so -- just to make sure I

Redacted

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1 understand. You think the observer part of
2 the process is an important part to
3 double-check the Secretary of State's office
4 work?

5 A. I do. But I don't -- I don't have
6 a vision of an observer sitting there with a
7 steno notebook taking down those names and
8 contact information and running out and
9 sending out e-mails about who it was they saw
10 in the room.

11 Q. And do you think that happened in
12 this case?

13 A. I don't.

14 Q. Did you talk to any folks who were
15 going to sign the Referendum 71 petition and
16 chose not to because they were worried about
17 their name being disclosed?

18 A. I can't say that I spoke to anyone
19 specifically about that, no.

20 Q. Do you recall whether you spoke
21 with anybody who signed the Referendum 71
22 petition and was the subject of harassments
23 or threats or sort of annoying interactions
24 with people?

25 A. I had heard -- I had heard some

Redacted

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1 stories from -- some calls and some threats
2 that had been made against the organizers or
3 those who were actually directly or
4 officially part of the campaign, but outside
5 of that, no.

6 Q. And -- and the organizers of the
7 campaign that you had heard about, is that
8 including Mr. Stickney?

9 A. It does.

10 Q. Any others?

11 A. Well, his sister was subject to a
12 couple of harassing kinds of calls. I don't
13 think there was any physical presence
14 involved in that.

15 Q. And that's Redacted ; is that
16 right?

17 A. Redacted

18 Q. Redacted

19 A. Well, her name then was Redacted My
20 understanding is she has since remarried. So
21 I'm not sure what her name is currently.

22 Q. Is that Redacted

23 A. Redacted

24 Q. Okay. Did you speak with anybody
25 else about sort of their experience with

Redacted

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1 signing Referendum 71?

2 A. I did not.

3 Q. Okay. Had you heard other
4 stories? Maybe you didn't talk to somebody
5 directly. But you had heard information
6 about people's experience?

7 A. I had indirectly heard of some
8 other, I guess things that you would kind of
9 throw in the harassment basket. But they
10 weren't -- they weren't things that were
11 directly known to me. And they weren't
12 things that had happened geographically in
13 the region where I lived. So I couldn't
14 attest to the veracity of those statements.

15 Q. So not anywhere near Redacted

16 A. Redacted .

17 Q. Just generally, and recognizing
18 that you can't verify whether or not they
19 were true, what were the sorts of stories you
20 heard?

21 A. Well, particularly, just -- just
22 kind of harassing calls, increased number of
23 kind of hang-ups, kind of prank call types of
24 things.

25 Q. Uh-huh.

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1 A. That was particularly what I
2 heard.

3 Q. Okay. So you haven't had any sort
4 of threats of reprisals against you either
5 for your involvement with Referendum 71?

6 A. No, ma'am.

7 Q. Nobody's ever contacted you at the
8 school where you taught --

9 A. No, ma'am.

10 Q. Or at home?

11 A. No, ma'am.

12 Q. Any of the folks you associate
13 with ever sort of shunned you or maybe pulled
14 away their friendship because of your
15 involvement with Referendum 71?

16 A. No, ma'am.

17 Q. Are there any other examples,
18 anything we haven't discussed this morning
19 about harassment or reprisals related to
20 Referendum 71?

21 A. I can't think of anything.

22 Q. And I gather that since you
23 haven't heard anything about threats or
24 harassment, that's both before and after the
25 election?

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1 A. Correct. Yes.

2 MS. BARNES: Okay. I think that's
3 all I have.

4 Anne, do you have more? Are you
5 there? Anne, are you still there?

6 MS. EGLER: Oh, I'm sorry. I am
7 here. I do have a few questions. Can you
8 hear me?

9 THE WITNESS: Yes, ma'am.

10
11 EXAMINATION BY MS. EGLER:

12 Q. My name is Anne Egler, and I'm
13 with the Washington State Attorney General's
14 office. And I'm representing the defendants
15 in this case, specifically Secretary of State
16 Reed. And I just have a couple of questions
17 for you to follow up and make sure I heard
18 things correctly.

19 One thing you mentioned was that
20 Redacted experienced some harassing phone
21 calls?

22 A. That was my -- that was my
23 recollection. But, of course, that comes
24 from her, not me directly.

25 Q. Okay. Do you know when she

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1 received harassing phone calls?

2 A. I don't, ma'am. I'm sorry.

3 Q. Okay. And do you know how many
4 she received?

5 A. I -- other than just the fact of
6 it, that is all the information I could
7 furnish.

8 Q. Okay. So you don't know what was
9 said during the phone calls?

10 A. No. And I didn't ask at the time.
11 She didn't volunteer.

12 Q. Okay. Did she mention to you
13 whether she called the police about these
14 phone calls?

15 A. I have given you as much
16 information as I have on that.

17 Q. Okay. And then just to make sure
18 I heard correctly, did you say that you have
19 not experienced any harassment as a result of
20 your association with Referendum 71?

21 A. You did hear that correctly.

22 Q. Okay. And then one other thing I
23 wanted to make sure I heard correctly. Am I
24 correct in understanding that you are not
25 concerned about publicly testifying in

Redacted

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1 federal court?

2 A. Well, I'm not anxious to do it,
3 but I am willing to do it.

4 Q. Okay. And you know of no pending
5 threats to you if you do testify publicly?

6 A. I do not know of any pending
7 threats to me.

8 MS. EGLER: Okay. I have no
9 further questions. Thank you.

10 THE WITNESS: Yes, ma'am.

11 MS. BARNES: And I don't have any
12 follow up. So I think we're all done.

13 MR. BIENIEK: I'd actually like to
14 ask a couple of follow-up questions.

15 MS. BARNES: Sure.

16 MR. BIENIEK: Scott Bieniek from
17 Bopp Coleson & Bostrom.

18

19 EXAMINATION BY MR. BIENIEK:

20 Q. Redacted, I want to ask -- I
21 want to go back to when you were signing the
22 petition at church.

23 A. Yes.

24 Q. Would you say, generally speaking,
25 that the individuals that you attend church

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1 with would be sort of friendly or sort of
2 believe and approach this issue in the same
3 fashion as you?

4 A. Yes, sir.

5 Q. Would you say that individuals in
6 your church would be likely to sort of
7 challenge you politically on this issue?

8 A. No.

9 Q. Let's go back to the question
10 about the personal information and -- and she
11 had asked you about, you know, your concerns
12 about it becoming public. You said that you
13 are concerned about your address and phone
14 number becoming public?

15 A. Yes, sir.

16 Q. Are you worried -- let me think --
17 let's go back.

18 Are there other places you are
19 aware of where individuals could come up with
20 your name, address, and/or phone number on
21 the internet.

22 A. I mean, I don't know anywhere
23 specifically.

24 Q. Have you ever searched for that?

25 A. I actually have occasionally

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1 searched for myself. One or two times I've
2 actually removed personal information from
3 a -- like a 411 kind of website. But
4 that's -- that's the extent of that.

5 Q. So if I'm understanding you
6 correctly, you're generally a private person?

7 A. I would describe myself as so,
8 yes.

9 MR. BIENIEK: Okay. I think
10 that's all I have.

11 MS. BARNES: Anne, do you have any
12 follow-up?

13 MS. EGLER: Yes, I do. Just a
14 couple.

15
16 EXAMINATION BY MS. EGLER:

17 Q. Redacted, when you were at the
18 park, you mentioned that there were people
19 gathering petition signatures; is that
20 correct?

21 A. Could you repeat the question?

22 Q. When you were at the rally at the
23 park in Redacted that you spoke about -- do
24 you recall that?

25 A. Yes, ma'am.

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1 Q. And if I heard correctly, you said
2 that there were petition signatures being
3 gathered at the park that day; is that
4 correct?

5 A. Yes, ma'am.

6 Q. Can you tell me, was the park
7 closed to the public that day?

8 A. No, ma'am.

9 Q. So is it possible that there were
10 people in the park who did not agree with
11 your position on Referendum 71?

12 A. I'm sure that that's a
13 possibility.

14 Q. Okay. Also, one thing I forgot to
15 ask you about. Miss Barnes asked you about a
16 website video that contained the interview
17 that you gave to the woman in the park that
18 day.

19 A. Yes, ma'am.

20 Q. Have you seen that video posted on
21 the internet?

22 A. I did at the time, yes.

23 Q. Okay. And did you ask the website
24 to take that video off?

25 A. I did not.

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1 Q. Okay. And are you still at the --
2 or do you still own the property that you
3 lived at in Redacted

4 A. No. We -- we moved in June 2010
5 here to Tennessee.

6 Q. Okay. And do you currently have
7 an unlisted telephone number?

8 A. I believe so.

9 Q. Okay. And if individuals were to
10 obtain the address that you used to live in
11 in Washington State, how would they then be
12 able to connect it to your current address in

13 Redacted

14 A. The short answer is I can't answer
15 that question. However, if I had still lived
16 in Washington, the concern would be the same.

17 MS. EGLER: Okay. Okay. I have
18 no further questions. Thank you.

19 MS. BARNES: Anything else to ask?

20 MR. BIENIEK: No.

21 MS. BARNES: All right. Thank
22 you.

23

24

25

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C E R T I F I C A T E

STATE OF TENNESSEE:
COUNTY OF DAVIDSON:

I, LISE S. MATTHEWS, RMR, CRR,
CCP, and Notary Public, Davidson County,
Tennessee, CERTIFY:

The deposition was taken before
me at the time and place stated in the
foregoing styled cause with the appearances
as noted.

Being a Court Reporter, I then
reported the proceedings in Stenotype, and
the foregoing pages contain a true and
correct transcript of my said Stenotype notes
then and there taken.

I am not in the employ of and am
not related to any of the parties or their
counsel, and I have no interest in the matter
involved.

I further certify that in order
for this document to be considered a true and
correct copy, it must bear my signature seal,
and that any reproduction in whole or in part
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be considered authentic.

Witness my signature this the
day of , 2010.

LISE S. MATTHEWS, RMR,CRR,CCP
Notary Public at Large
For the State of Tennessee
My Commission Expires:
May 20, 2014

Tennessee License No. 353

Redacted

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E R R A T A

I, Redacted having
 read the foregoing deposition, Pages 4
 through 52, taken October 15, 2010, do hereby
 certify said testimony is a true and accurate
 transcript, with the following changes (if
 any):

PAGE	LINE	SHOULD HAVE BEEN
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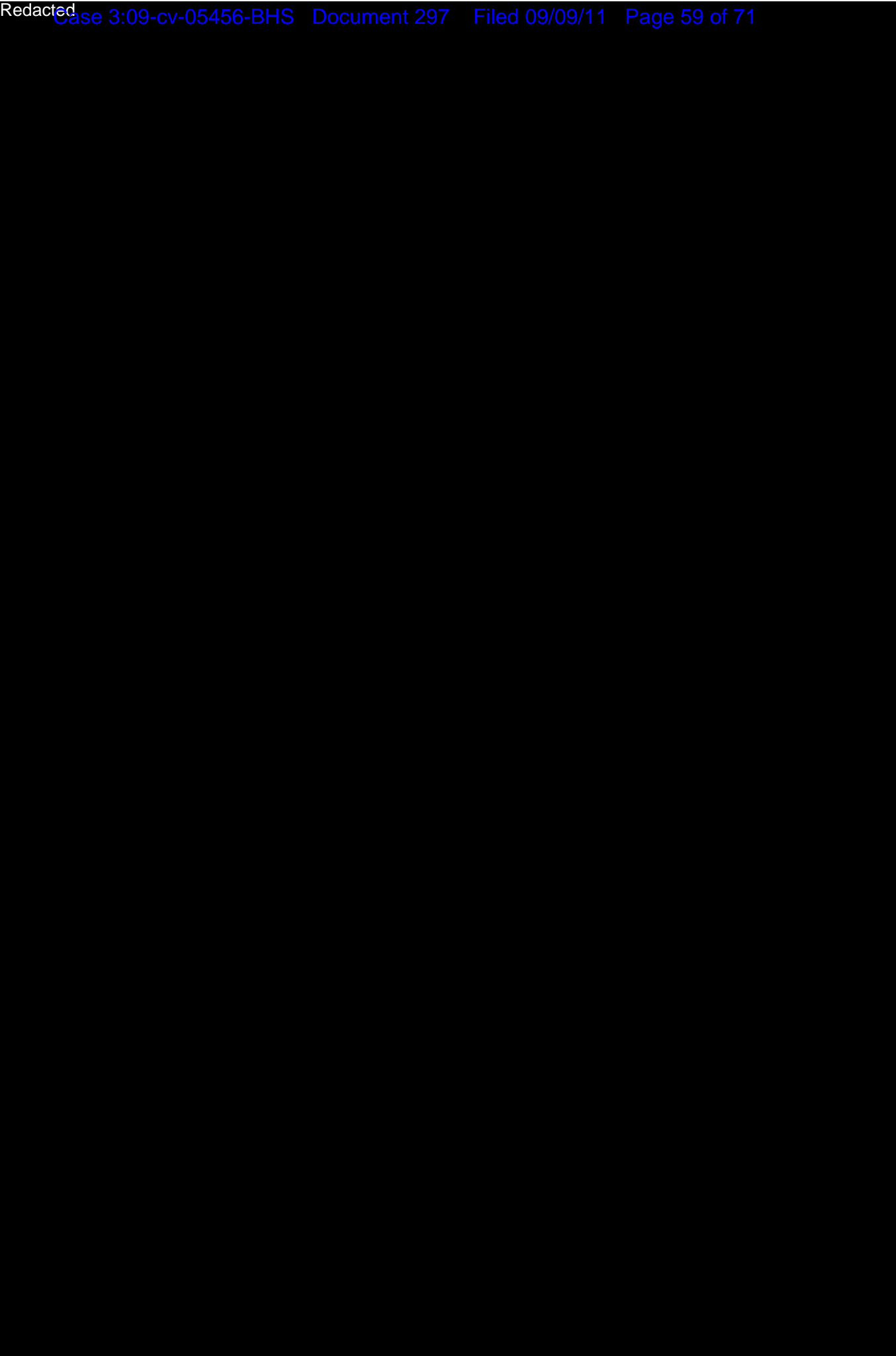
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